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8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 JOHN E. BARNHOUSE,

11 Plaintiff,

12 v.

13 ERIC YOUNG, MICHAEL CHRISTENSEN,  
14 AND JEFF KETTEL,

15 Defendants.

Case No. C08-5553 RJB/KLS

ORDER ADOPTING  
REPORT AND  
RECOMMENDATION AND  
DISMISSING CASE WITHOUT  
PREJUDICE

16 This matter comes before the Court on the Report and Recommendation of Magistrate Judge  
17 Karen L. Strombom (Dkt. 41). The Court has considered the relevant documents, objections to the Report  
18 and Recommendation, and the remaining record.

19 On April 6, 2009, the Magistrate Judge filed a Report and Recommendation (Dkt. 41) on  
20 Defendants' Motion to Dismiss (Dkt. 14). On April 8, 2009, the Plaintiff filed a document after the filing  
21 of the Report and Recommendation entitled "Plaintiff [sic] response to: Defendant's [sic] motion to  
22 dismiss, for failure to exhaust administrative remedies and mem [sic] in support." Dkt. 43. In the interest  
23 of fairness and justice, the Court will consider the Plaintiff's filing as part of his objection to the Report and  
24 Recommendation (Dkt. 41). On April 17, 2009, the Plaintiff filed his objection to the Report and  
25 Recommendation. Dkt. 53. A response to the objection was filed on April 24, 2009. Dkt. 56.

26 The Report and Recommendation recommends that the motion to dismiss be granted and Mr.  
27 Barnhouse's Complaint be dismissed without prejudice because he has failed to exhaust his administrative  
28 remedies. The facts and the arguments are recited in the Report and Recommendation and will not be


1 repeated here. Mr. Barnhouse's arguments are without merit and were appropriately addressed in the  
2 Report and Recommendation and the Response to the Plaintiff's Objections to the Report and  
3 Recommendation. Therefore, the Court should adopt the Report and Recommendation.

4 All other pending motions should be denied as moot.

5 The Court does hereby find and ORDER:

- 6 (1) The Court adopts the Report and Recommendation (Dkt. 53);  
7 (2) Defendants' motion to dismiss (Dkt. 14) is **GRANTED** and Plaintiff's Complaint is  
8 **DISMISSED WITHOUT PREJUDICE**;  
9 (3) All other pending motions are denied as moot; and  
10 (4) The Clerk is directed to send copies of this Order to plaintiff, counsel for defendants, and to  
the Hon. Karen L. Strombom.

11 DATED this 11<sup>th</sup> day of May, 2009.

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13 Robert J. Bryan  
14 United States District Judge